

**Pt. 39**

vehicle) while in active military, naval or air service, and whose remains were not recovered or identified, were buried at sea, or are otherwise unavailable for interment.

(c) A group memorial monument furnished by VA may be placed only in a national cemetery in an area reserved for such purpose. If a group memorial monument has already been provided under this regulation or by any governmental body, e.g., the American Battle Monuments Commission, to commemorate the dead from a common military event, an additional group memorial monument will not be provided by VA for the same purpose.

(d) Application for a group memorial monument shall be submitted in a manner specified by the Secretary. Evidence used to establish and determine eligibility for a group memorial monument will conform to paragraph (a)(4) of this section.

(Authority: 38 U.S.C. 501, 2403)

**PART 39—AID FOR THE ESTABLISHMENT, EXPANSION, AND IMPROVEMENT, OR OPERATION AND MAINTENANCE, OF VETERANS CEMETERIES**

**Subpart A—General Provisions**

**Sec.**

- 39.1 Purpose.
- 39.2 Definitions.
- 39.3 Priority list.
- 39.4 Decision makers, notifications, and additional information.
- 39.5 Submission of information and documents to VA.
- 39.6 Amendments to grant application.
- 39.7 Line item adjustment to grants.
- 39.8 Withdrawal of grant application.
- 39.9 Hearings.
- 39.10 Cemetery requirements and prohibitions and recapture provisions.
- 39.11 State or Tribal Organization to retain control of operations.
- 39.12–39.29 [Reserved]

**Subpart B—Establishment, Expansion, and Improvement Projects**

**GRANT REQUIREMENTS AND PROCEDURES**

- 39.30 General requirements for a grant.
- 39.31 Preapplication requirements.
- 39.32 Plan preparation.
- 39.33 Conferences.
- 39.34 Application requirements.

**38 CFR Ch. I (7–1–14 Edition)**

- 39.35 Final review and approval of application.
- 39.36–39.49 [Reserved]

**AWARD OF GRANT**

- 39.50 Amount of grant.
- 39.51 Payment of grant award.
- 39.52–39.59 [Reserved]

**STANDARDS AND REQUIREMENTS**

- 39.60 General requirements for site selection and construction of veterans cemeteries.
- 39.61 Site planning standards.
- 39.62 Space criteria for support facilities.
- 39.63 Architectural design standards.
- 39.64–39.79 [Reserved]

**Subpart C—Operation and Maintenance Projects**

**GRANT REQUIREMENTS AND PROCEDURES**

- 39.80 General requirements for a grant.
- 39.81 Preapplication requirements.
- 39.82 Plan preparation.
- 39.83 Conferences.
- 39.84 Application requirements.
- 39.85 Final review and approval of application.
- 39.86–39.99 [Reserved]

**AWARD OF GRANT**

- 39.100 Amount of grant.
- 39.101 Payment of grant award.
- 39.102–39.119 [Reserved]

**Subpart D—Grant Recipient Responsibilities, Inspections, and Reports Following Project Completion**

- 39.120 Documentation of grant accomplishments.
- 39.121 State or Tribal Organization responsibilities following project completion.
- 39.122 Inspections, audits, and reports.

**AUTHORITY:** 25 U.S.C. 450b(1); 38 U.S.C. 101, 501, 2408, 2411, 3765.

**SOURCE:** 75 FR 34005, June 16, 2010, unless otherwise noted.

**Subpart A—General Provisions**

**§ 39.1 Purpose.**

This part sets forth the mechanism for a State or Tribal Organization to obtain a grant to establish, expand, or improve a veterans cemetery that meets VA's national shrine standards of appearance that is or will be owned by the State, or operated by a Tribal Organization on trust land, or to obtain a grant to operate or maintain a State or Tribal veterans cemetery to

## Department of Veterans Affairs

## § 39.3

meet VA's national shrine standards of appearance.

(Authority: 38 U.S.C. 501, 2408)

[77 FR 4472, Jan. 30, 2012]

### § 39.2 Definitions.

For the purpose of this part:

*Establishment* means the process of site selection, land acquisition, design and planning, earth moving, landscaping, construction, and provision of initial operating equipment necessary to convert a tract of land to an operational veterans cemetery.

*Establishment, Expansion, and Improvement Project* means an undertaking to establish, expand, or improve a site for use as a State or Tribal veterans cemetery.

*Expansion* means an increase in the burial capacity or acreage of an existing cemetery through the addition of gravesites and other facilities, such as committal service shelters, crypts (preplaced grave liners), and columbaria, necessary for the functioning of a cemetery.

*Improvement* means the enhancement of a cemetery through landscaping, construction, or renovation of cemetery infrastructure, such as building expansion and upgrades to roads and irrigation systems that is not directly related to the development of new gravesites; nonrecurring maintenance; and the addition of other features appropriate to cemeteries.

*Indian Tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or Regional or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*Operation and Maintenance Project* means a project that assists a State or Tribal Organization to achieve VA's national shrine standards of appearance in the key cemetery operational areas of cleanliness, height and alignment of headstones and markers, leveling of gravesites, and turf conditions.

*Secretary* means the Secretary of the United States Department of Veterans Affairs.

*State* means each of the States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

*Tribal Organization* means:

(1) The recognized governing body of any Indian Tribe;

(2) Any legally established organization of Indians that is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities;

(3) The Department of Hawaiian Homelands; and

(4) Such other organizations as the Secretary may prescribe.

*Trust land* means any land that:

(1) Is held in trust by the United States for Native Americans;

(2) Is subject to restrictions on alienation imposed by the United States on Indian lands, including native Hawaiian homelands;

(3) Is owned by a Regional Corporation or a Village Corporation as defined in 43 U.S.C. 1602(g) and (j); or

(4) Is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

*VA* means the United States Department of Veterans Affairs or the Veterans Cemetery Grants Service.

*Veteran* means a person who served in the active military, naval, or air service who died in line of duty while in service or was discharged or released under conditions other than dishonorable.

*Veterans Cemetery Grants Service (VCGS)* means the Veterans Cemetery Grants Service within VA's National Cemetery Administration.

(Authority: 25 U.S.C. 450b(1), 38 U.S.C. 101, 501, 2408, 3765)

[77 FR 4472, Jan. 30, 2012]

### § 39.3 Priority list.

(a) The priority groups, with Priority Group 1 having the highest priority and Priority Group 4 the lowest priority, are: